

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Crl.MC.No. 3572 of 2007()

AGAINST THE ORDER DATED 23/11/2007 IN CRMP. 1713 /2007 IN
SC.324/2004 of ADDL.SESIONS COURT (ADHOC)III, MANJERI
.....

PETITIONER:

T.K.SAIDALIKUTTY,
SPECIAL PROSECUTOR, ADVOCATE,
M/S. SHERIFF ASSOCIATES, MULLASSERRY CANAL ROAD,
KOCHI-11.

BY ADV. SRI.P.M.KUNJIMOIDEENKUTTY
SRI.LAL K.JOSEPH
SMT.SHEENA SAMUEL
SRI.V.R.REKESH

RESPONDENTS: COMPLAINANT AND STATE

-
1. SUB INSPECTOR OF POLICE,
TANUR POLICE STATION, TANUR, MALAPPURAM DIST.
 2. THE STATE, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 3572 of 2007

Dated this the 29th day of November, 2007

ORDER

This petition is filed on behalf of the State by the Special Prosecutor, who has been appointed in a Sessions trial, aggrieved by the rejection of the prayer of the prosecution to adjourn the trial of a sessions case, which is scheduled to commence on 1.12.2007.

2. The case was listed sufficiently early and from 1.12.07 to 7.12.2007 witnesses are summoned to appear and give evidence. In the last week of November, the State filed an application praying that the trial may be adjourned. The reason shown was that some of the witnesses are not available. The learned Judge considered the prayer and rejected the same. The learned Sessions Judge felt that many witnesses have already been summoned and that adjournment of the listed sessions trial would upset the schedule of work of the court and cause inconvenience to the witnesses also. It is in these circumstances that the petition was dismissed.

3. The learned counsel for the petitioner submits that very serious hardship and prejudice would result if the crucial and vital witnesses who are now abroad are not made available for examination before the learned Judge. That would result in failure of justice. It is in these circumstances prayed that the impugned order may be set aside and the learned Sessions Judge may be directed to adjourn the trial of the case to a future date in February, 2008, by which date the petitioner expects that the witnesses shall be available.

4. I have gone through the impugned order. I am unable to find any vice vitiating the impugned order, that should persuade me to invoke the extra ordinary inherent jurisdiction under Section 482 Cr.P.C. The prosecution must have taken steps to secure the presence of the witnesses sufficiently early. If the prosecution feels that there are compelling reasons, which make it impossible for the prosecution to get ready for the trial, the interests of orderly procedure demanded that an application should have been made sufficiently early. The learned Sessions Judge was confronted with a belated application at the

11th hour to adjourn the trial. The order of the learned Sessions Judge does not at all strike me as improper or incorrect.

5. I do further note that no failure of justice is likely to result. With the available witnesses the trial can go on. If the learned Prosecutor feels that examination of any witness is absolutely essential, the learned Prosecutor can seek time for examination of such specified witnesses. I have no reason to assume that the learned Judge would not consider such reasons. I need not at this point assume that the learned Sessions Judge would not act true to his duty to discover truth and do justice.

6. With the above observations, this Crl.M.C. is dismissed.

(R. BASANT)
Judge

tm